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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/895,027	06/29/2001	Olaf Isele	8610	7458

27752 7590 12/03/2002

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EXAMINER

CHANNAVAJJALA, LAKSHMI SARADA

ART UNIT PAPER NUMBER

1615

DATE MAILED: 12/03/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/895,027

Applicant(s)

ISELE ET AL.

Examiner

Lakshmi S Channavajjala

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-20 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2 and 4. 6) ☐ Other:

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DETAILED ACTION

Receipt of response to restriction requirement, dated 9-23-02 is acknowledged.

Election/Restrictions

In response to applicants' arguments, examiner has withdrawn the restriction requirement of paper #4, dated 8-22-02.

Accordingly, claims 1-20 are presented for examination.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the variable "z" as thickness of substrate, which is vague and unclear because, instant specification does not define Z as the thickness of the substrate. Instead, the specification describes Z as a direction, which is perpendicular to the contacting surface and further, states that for measurement purposes, $Z=0$ for the contacting surface 91 and $z=z$ for the opposing surface. It is unclear as how to z can be zero, which essentially means that the contacting surface of the substrate is non-existing.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

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such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1, 3-7 and 9-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,426,442 to Roe et al (hereafter Roe).

Roe teaches an absorbent article used as training pants, diapers adult incontinence devices, and the like. The absorbent article of Roe comprises a fluid-permeable top sheet, an absorbent core and an impermeable back sheet (col. 1, lines 25-36). The top sheet is hydrophilic in nature to provide superior fluid handling properties as it is coated with a lotion that is transferable to the wearer (col.2, lines 48-58 and col. 5, lines 19-38). Thus, the lotion and the top sheet of Roe meet the claimed requirements of beneficial component and the porous substrate. The lotion of the top sheet comprises an emollient selected from petrolatum-based emollients, fatty acid esters etc., and an immobilizing agent. The quantity of the lotion ranges from 0.1 mg/square inch to 25mg/square inch (col. 3). With respect to the hydrophilicity and hydrophobicity claimed, Roe teaches emollients and immobilizing agents such as those recited in the claims (cols. 10-16), which read on hydrophobic materials and suggests adding a hydrophilic surfactant to promote rapid transfer of liquids (col. 16, lines 65-68 through col. 18). With respect

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to the claimed layers of beneficial component and ratio of beneficial component, Roe suggests adding lotion to the top sheet of the article in a variety of methods i.e., uniform or non-uniform distribution, without saturating the top sheet with the lotion composition. Further, Roe suggests adding lotion to the entire surface of top sheet or portions of the sheet, and in different patterns, depending on the properties of lotion used and contact on wearer's skin (cols. 18-19).

Roe lacks the instant thickness of the beneficial component and the claimed layers of the component claimed. However, Roe suggests several patterns and ways of applying a lotion. For instance, Roe suggests adding lotion having a width of 7 inch long (longitudinal) and 3.75 inch (lateral direction) (col. 19, lines 40-49), not saturating the entire top sheet with lotion so as to reduce the blocking of pores on the top sheet (col. 19, lines 9-18). Therefore, it would have been obvious for one of an ordinary skill in the art at the time of the instant invention to appropriately choose the amount of the lotion applied, uniformly or non-uniformly applying the lotion (discrete spots or layers or patches), without completely saturating the entire top sheet such that the lotion is transferred to the wearer's skin with the maximum potential and still allow the absorption of fluids in the absorbent core.

Claims 2 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,426,44 to Roe et al (Roe) as applied to claims 1, 3-7 and 9-20 above, and further in view of US 4,994,053 to Lang.

Roe, discussed above, teaches absorbent articles for use as diapers, feminine hygiene pads, and incontinence pads. Roe does not teach absorbent articles for inanimate surfaces, as claimed.

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Lang teaches composite absorbent articles containing several areas of uniformly applied super absorbent materials or other particulate material on a substrate (col. 2, lines 44-50). Lang teaches that the absorbent materials are used as absorbent garments i.e., diapers, incontinence garment, feminine hygiene pad etc., (col. 4, lines 36-45) or for absorbing spills, oils, floor pads and other multipurpose wipes (col. 5, lines 8-34). Claims 5 and 16 of Lang describe the same basic design of the absorbent article, such as the instant invention i.e., an impermeable backing layer, a liquid permeable web on the top and a super absorbent material to absorb the fluids.

It would have been obvious for one of an ordinary skill in the art at the time of the instant invention to use the absorbent article of Roe for use on animate surfaces i.e., as diapers, feminine pads; or on inanimate surfaces such as cleaning spills, floors pads or other wipes, because both Roe and Lang describe absorbent articles having an impermeable back, an absorbent material and a permeable top structure for absorbing liquids, thus forming analogous art. Further, Lang suggests that the absorbent material is useful to absorb both body fluids (as with diapers) and non-bodily fluids such as oil spills, floor pads. One of an ordinary skill in the art would have used a cleaning component such as soap or detergent in the absorbent article of Roe, in place of the lotion, when the article is used for cleaning floor or oil spills, with an expectation to not only absorb the spill but also simultaneously clean the spill.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lakshmi S Channavajjala whose telephone number is 703-308-2438. The examiner can normally be reached on 7.30 AM -4.00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K Page can be reached on 703-308-2927. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7924 for regular communications and 703-308-7924 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1235.



Lakshmi S Channavajjala
Examiner
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December 2, 2002